

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

Eduardo Edgar Molina,

Plaintiff,

*versus*

Home Depot U.S.A., INC.,

Defendant.

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United States District Court

Southern District of Texas

**ENTERED**

June 10, 2022

Nathan Ochsner, Clerk

Civil Action H-19-1896

## Opinion Denying Summary Judgment

### 1. *Introduction.*

The question is whether the law of the case requires denial of Home Depot's second motion for summary judgment. It does.

### 2. *Background.*

Eduardo Edgar Molina sued Home Depot U.S.A. after injuring his lower back stacking wooden posts at work. Home Depot moved for summary judgment on all issues. Molina appealed the summary judgment order. The Fifth Circuit affirmed summary judgment on two claims but vacated and remanded on Molina's claim for inadequate equipment. Home Depot has moved for summary judgment again.

### 3. *Law of the case.*

The law of the case doctrine precludes reexamination of issues decided on appeal. Home Depot says that it owed him no duty to provide a back brace and that the evidence does not establish causation. Molina says issues of fact exist as decided on appeal and summary judgment must be denied. Molina is correct.

This case is procedurally similar to a recent case applying the doctrine.<sup>1</sup> The Fifth Circuit found factual disputes over (a) Home Depot's duty to furnish a back brace and (b) the proximate cause of Molina's injury. Home Depot's

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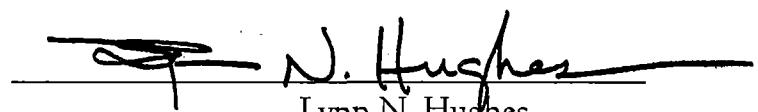
<sup>1</sup>*Alpha/Omega Ins. Servs. Inc. v. Prudential Ins. Co. of Am.*, 272 F.3d 276 (5th Cir. 2001).

second attempt at summary judgment fails, because the law of the case is that factual disputes exist. A genuine issue of material fact exists.

4. *Conclusion.*

Home Depot's motion for summary judgment will be denied.

Signed on June 10, 2022, at Houston, Texas.

  
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Lynn N. Hughes  
United States District Judge